

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
HENRY TUCKER, ON BEHALF OF HIMSELF
AND ALL OTHERS SIMILARLY SITUATED,

Plaintiff,

-against-

C. & J. CLARK RETAIL, INC.,

Defendant.

ANALISA TORRES, District Judge:

USDC SDNY
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DATE FILED: 3/31/2020

19 Civ. 10031 (AT)

ORDER

On February 28, 2020 Defendant moved to dismiss the complaint for failure to state a claim. ECF No. 23. On March 11, 2020, Plaintiff filed an amended complaint pursuant to Rule 15(a)(1)(B) of the Federal Rules of Civil Procedure. ECF No. 26.

“Since the original complaint has been superseded by the amended complaint, the motion to dismiss the original complaint has been rendered moot.” *Gonzalez v. Paine, Webber, Jackson & Curtis, Inc.*, 493 F. Supp. 499, 501 (S.D.N.Y. 1980); see *Weinreb v. Xerox Bus. Servs., LLC Health & Welfare Plan*, 323 F. Supp. 3d 501, 508 n.6 (S.D.N.Y. 2018) (“[C]ourts in this circuit routinely deny . . . motions as moot . . . when the motion was based on a complaint that has been rendered legally inoperative.” (internal quotation marks and citations omitted)), *appeal filed*, No. 18-2809 (2d Cir. Sept. 21, 2018); *Verzani v. Costco Wholesale Corp.*, 641 F. Supp. 2d 291, 297 (S.D.N.Y. 2009) (“[D]efendant’s motion to dismiss, which was directed to the original complaint, was mooted by the filing of the amended complaint.”). Accordingly, Defendant’s motion to dismiss the original complaint is DENIED as moot.

The Clerk of Court is directed to terminate the motion at ECF No. 23.

SO ORDERED.

Dated: March 31, 2020
New York, New York



ANALISA TORRES
United States District Judge